

III. Remarks

A. Status of the Application

Applicant appreciates and acknowledges the allowability of Claims 4, 6-7, 9-16, 18-21, 24, 25, and 27-35. Claims 1 and 17 have been amended. No new matter has been added by the amendments herein. Reconsideration of this application in light of the above amendments and the following remarks is respectfully requested.

B. Rejection under 102(b) over U.S. 5,002,130 to Laky

Claims 1, 3, 5, 8, 17, 22, 23, and 26 are rejected under 35 U.S.C. 102(b) over U.S. Patent No. 5,002,130 to Laky ("Laky"). To the extent the rejection applies to the amended claims, Applicant respectfully traverses the rejection.

Claim 1 recites the limitations of holding tubing in a stationary position in a first location and a second location, and shearing the tubing in one or more locations between and apart from the first location and the second location.

Laky does not teach or suggest the desirability of shearing the tubing in one or more locations between and apart from the first location and the second location, as recited in independent claim 1. In the Office Action, the Examiner stated that Laky discloses, "means for holding tubing at a first and second location (first device 127, 127a, second device 126, 126a), and means for shearing the tubing 25..." Numeral 25 in Laky refers to the shears. Shears 25 are at a single location positioned below guide 26 as shown in figure 3. "The guide functions to protect the tubing against sharp bends at the top of the assembly and assists in centering the tubing in the shear." (Laky, column 3, lines 20-23).

"FIGS. 8, 9, 10, and 11 best illustrate the shear 25." (Laky, column 5, line 26). As shown in Figure 9, cutting edge 112 is immediately adjacent abutment surface 128. And cutting edge 113c is immediately adjacent abutment surface 128a. Abutment surface 128 works with upper abutment member 116a to hold tubing 17 at a first location, and abutment surface 128a works with lower abutment member 116 to hold tubing 17 at a second location, and tubing 17 is cut by cutting edge 112 and cutting edge 113c.

Cutting edge 112 and cutting edge 113c cut tubing 17 at a location between the first location and the second location, and immediately adjacent to the first location and the second location, not apart from the first location and the second location. This arrangement of the abutment surfaces and the blades allows the tubing to be bent into a double C configuration:

"As the rams continue to close the forming abutment members bottom out on the carriers and the tubing is bent into reverse double C configurations at vertically spaced points, cut and both cut ends crimped as illustrated. As illustrated the tubing will be stretched in the area of the cut and will be crimped in the cutouts on the blades." (Laky, column 6, line 65 – column 7, line 3).

Claim 17 recites the limitations of a first holding device for holding tubing at a first location, a second holding device for holding tubing at a second location, and at least one shearing device for shearing the tubing at a location between and apart from the first location and second locations.

As discussed above, Laky does not teach or suggest the desirability of shearing the tubing in one or more locations between and apart from the first location and the second location, as recited in independent claim 17.

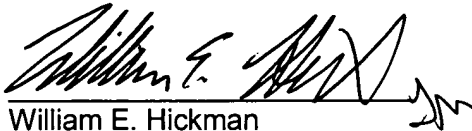
Dependent claims 3, 5, 8, 22, 23, and 26 are allowable for at least the same reasons as their respective independent claims discussed above. Applicant respectfully requests that the Examiner withdraw the rejection to claims 1, 3, 5, 8, 17, 22, 23, and 26.

C. Conclusion

In view of the foregoing, Applicant respectfully submits that all pending claims are allowable, and respectfully requests a notice of allowance for claims 1 and 3-35. If the Examiner believes an interview would be helpful in moving the application forward to allowance, or has any questions, the Examiner is invited to call the undersigned at the telephone number listed below.

Respectfully submitted,

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